

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0309.01 Thomas Morris x4218

HOUSE BILL 15-1071

HOUSE SPONSORSHIP

Keyser,

SENATE SPONSORSHIP

(None),

House Committees
Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING CLARIFICATION THAT, FOLLOWING A MERGER OF
102 ENTITIES, THE SURVIVING ENTITY IS ENTITLED TO CONTROL THE
103 PREMERGER ATTORNEY-CLIENT PRIVILEGES OF A CONSTITUENT
104 ENTITY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Existing law specifies that when entities merge, all of the privileges of each of the merging entities vest as a matter of law in the surviving entity. The bill clarifies that the attorney-client privilege is

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

among the privileges that vest in the surviving entity.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 7-90-204, **amend** (1)

3 (a) as follows:

4 **7-90-204. Effect of merger.** (1) When a merger is effective:

5 (a) Every merging entity merges into the surviving entity and the
6 separate existence of every merging entity ceases. All of the rights,
7 privileges, INCLUDING SPECIFICALLY THE ATTORNEY-CLIENT PRIVILEGE,
8 and powers of each of the merging entities, all real, personal, and mixed
9 property, and all obligations due to each of the merging entities, as well
10 as all other things and causes of action of each of the merging entities,
11 ~~shall~~ vest as a matter of law in the surviving entity and ~~shall~~ ARE
12 thereafter ~~be~~ the rights, privileges, powers, and property of, and
13 obligations due to, the surviving entity. Title to any property vested in any
14 of the merging entities ~~shall~~ DOES not revert, ~~or be~~ AND IS NOT in any way
15 impaired by reason of the merger; except that all rights of creditors in and
16 all liens upon any property of any of the merging entities ~~shall be~~ ARE
17 preserved unimpaired in the same property, however held. All obligations
18 of the merging entities ~~shall~~ attach as a matter of law to the surviving
19 entity and may be fully enforced against the surviving entity. A merger
20 does not constitute a conveyance, transfer, SALE OF ASSETS, or
21 assignment. Nothing in this section affects the validity of contract
22 provisions or of reversions or other forms of title limitations that attach
23 conditions or consequences specifically to mergers.

24 **SECTION 2. Act subject to petition - effective date -**
25 **applicability.** (1) This act takes effect September 1, 2015; except that,

1 if a referendum petition is filed pursuant to section 1 (3) of article V of
2 the state constitution against this act or an item, section, or part of this act
3 within the ninety-day period after final adjournment of the general
4 assembly, then the act, item, section, or part will not take effect unless
5 approved by the people at the general election to be held in November
6 2016 and, in such case, will take effect on the date of the official
7 declaration of the vote thereon by the governor.

8 (2) This act applies to conduct occurring before, on, or after the
9 applicable effective date of this act.